

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER**

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UNITED STATES OF AMERICA,)	
Complainant,)	8 U.S.C. § 1324b Proceeding
)	
v.)	OCAHO Case No. 98B00027
)	
CHARLES KRUPIN,)	Judge Robert L. Barton, Jr.
Respondent.)	
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**ORDER DIRECTING PARTIES TO APPEAR FOR
A TELEPHONE PREHEARING CONFERENCE**

(February 26, 1998)

A telephone prehearing conference will commence in this case at 9 a.m. EST on Friday, March 13, 1998. The conference call will be initiated by my office and will be held simultaneously with the prehearing conference in Asconeguy v. Krupin, Case No. 98B00033. The conference is expected to last approximately one and a half hours. A court reporter will be present in my office to record the conference, and a transcript of the same will be prepared.

Before the conference takes place, the parties are ordered to confer by telephone to discuss the nature and basis of their claims and defenses, the possibility of settlement or resolution of the case, to make or arrange for the mandatory disclosures required by Rule 26(a)(1), Fed. R. Civ. P., and to develop a proposed discovery plan. See Fed. R. Civ. P. 26(f).¹ Although counsel for

¹ This proceeding is governed by the Rules of Practice for Administrative Hearings contained in 28 C.F.R. Part 68 (hereinafter OCAHO Rules). However, the Rules of Civil Procedure for the District Courts of the United States may be used as a general guideline in any situation not provided for or controlled by the OCAHO Rules, the Administrative Procedure Act, or by any other applicable statute, executive order, or regulation. 28 C.F.R. § 68.1 (1996). OCAHO Administrative Law Judges commonly reference and employ pertinent parts of the Federal Rules of Civil Procedure

Complainant shall be responsible for initiating the process, counsel for both parties are jointly responsible for attempting in good faith to agree on the discovery plan.²

During the conference I will consider whether this case should be consolidated with the action in Asconeguy v. Krupin, Case No. 98B00033, and I will expect the parties to state their positions with respect to such consolidation. In addition, during the conference the following will be considered:

- (1) the claims in the complaint and the defenses raised in the answer to the complaint (counsel will be expected to address the specific bases for the claims and defenses asserted respectively);
- (2) the necessity or desirability of amendments to the pleadings;
- (3) the possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof, stipulations regarding the authenticity of documents, and advance rulings on the admissibility of evidence;
- (4) the avoidance of unnecessary proof and of cumulative evidence, limitation on the number of witnesses, and reasonable time limitations for direct and cross-examination;
- (5) the appropriateness and timing of summary adjudication pursuant to 28 C.F.R. § 68.38;
- (6) the scheduling of discovery and other prehearing matters;
- (7) the identification of witnesses and documents, the need and schedule for filing and exchanging prehearing briefs and the date or dates for any further conferences and for hearing;
- (8) negotiation, compromise, or settlement of issues;
- (9) the disposition of any pending motions;
- (10) such other matters as may facilitate the just, speedy, and inexpensive disposition of the action.

See 28 C.F.R. § 68.13(a) and Rule 16(c), FRCP.

² Although Respondent Krupin is an attorney, David Slater, Esq. has entered an appearance in this case on behalf of Respondent. Since Respondent is being represented by counsel, it is Mr. Slater's responsibility to confer with Complainant's counsel prior to the conference.

If a party or party's counsel fails to obey this order, fails to attend the conference, is substantially unprepared to participate in the conference, or fails to participate in good faith, upon motion by the opposing party or on the Judge's own initiative, sanctions may be imposed on the party and/or counsel, including possible dismissal of the complaint or request for hearing or the exclusion of the party's representative, as appropriate. See 28 C.F.R. §§ 68.1, 68.23, 68.28, and 68.37.

An original and two (2) copies of all pleadings, including attachments, shall be filed with this office. 28 C.F.R. § 68.6(a) (1996). All documents filed with this office, including but not limited to motions, other pleadings, briefs and memoranda, must be sequentially numbered or they will not be accepted for filing. The parties shall not file with the Judge any documents produced during discovery unless the documents are related to a pending motion or upon the order of the Administrative Law Judge. 28 C.F.R. § 68.6(b) (1996).

All requests for relief, including requests for an extension of time, shall be submitted in the form of a written motion, not a letter. A party should not move for an extension of time unless the movant has conferred or has attempted to confer with the opposing party to secure that party's agreement to the extension. If the non-moving party does not object to the extension, the motion shall so indicate. If the movant has attempted to confer, but has been unable to reach the opposing party or to secure the opposing party's agreement to the extension, the motion shall so indicate by relating the steps the movant took to communicate with the opposing party. Further, the motion for an extension of time shall be submitted prior to the due date and shall include a proposed order to be signed by the Judge.

If the parties settle this case, counsel for Complainant shall be responsible for submitting a written notice or motion pursuant to the requirements of 28 C.F.R. § 68.14 (1996).

ROBERT L. BARTON, JR.
ADMINISTRATIVE LAW JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of February, 1998, I have served the foregoing Order Directing Parties To Appear For A Prehearing Conference on the following persons at the addresses shown, by first class mail, unless otherwise noted:

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